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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 54 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

SUBHASH FAMILY TRUST

Appearance:

1. INCOME TAX REFERENCE No. 54 of 1989
MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1
SERVED BY RPAD - (N) for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for the opinion of this Court in respect of assessment year 1982-83 :-

"Whether the appellate Tribunal is right in law and on facts in directing the Income-tax Officer to treat the assessee trust as a specific trust?"

2. We have heard Mr BB Naik, learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. Our attention is invited to the decision dated 11.11.1998 of this Court in Income-tax Reference No. 111 of 1984 between the same parties in respect of assessment year 1979-80. This Court held that the assessee-trust is a specific trust and the finding to that effect of the appellate Tribunal is justified on material on record.

4. Nothing is pointed out to persuade us for taking a different view in relation to assessment year 1982-83. Hence, following the aforesaid decision of this Court in Income-tax Reference No. 111 of 1984, our answer to the question referred for our opinion in this reference is also in the affirmative i.e. in favour of the assessee and against the revenue.

The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-